

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ZAKIYA HAMILTON,  
*on behalf of Z.T.W.*,

Plaintiff,

Case No. 20-cv-20-pp

v.

COMMISSIONER OF THE  
SOCIAL SECURITY ADMINISTRATION,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED  
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 2)**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for supplemental security income on behalf of her daughter under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's affidavit indicates that she is not employed, she is not married, and she has a 6-year-old daughter she is responsible for supporting. Dkt. No. 2 at 1. The plaintiff's only income is \$872 per month from W-2/AFDC benefits and Food Share/Food

Assistance. Id. at 2. The plaintiff lists expenses of \$1,060 per month (\$550 rent, \$150 other household expenses, \$360 food). Id. at 2-3. The plaintiff does not own a home, she owns a 2004 Hyundai Santa Fe worth approximately \$2,000, she owns no other property of value, and she has no cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff states, “Zakiya Hamilton is filing this action on behalf of her minor child, Z.T.W., who is age 6. Zakiya made up for the shortfall in her budget with savings from the past, but these funds have been expended now.” Id. at 4. The plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

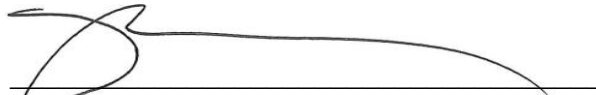
The plaintiff’s complaint indicates that her daughter was denied benefits by the Commissioner, that her daughter is disabled, and that the Commissioner’s unfavorable conclusions and findings of fact when denying benefits are not supported by substantial evidence and/or are contrary to law and regulation. Dkt. No. 1 at 3. At this early stage in the case, and based on

the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 8th day of January, 2020.

**BY THE COURT:**

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**